

**REMARKS**

Claims 1 – 7 and 21 - 34 are pending in the present application, of which claims 28 – 32 have been withdrawn from consideration. By this Amendment, claims 1 – 5, 21-25, 33 and 34 have been amended. No new matter has been added. It is respectfully submitted that this Amendment is fully responsive to the Office Action dated May 4, 2005.

**Title of the Invention:**

The title of the invention stands objected to as being non-descriptive. However, it is respectfully submitted that the title has been amended in the manner suggested by the Examiner. Accordingly, withdrawal of this objection is respectfully requested.

**The Yosida Reference:**

Claims 1-7, 21-27 and 33-34 stand rejected under 35 USC 102(e) as being anticipated by Yosida.

This rejection is respectfully traversed.

Yosida discloses an imaging apparatus where a 6-color filter consisting of 2-density RGB is used to increase dynamic range. As such 6-color filter, one constructed by extending the prior art Bayer RGB filter into 2-density RGB (6 colors) having a cyclic arrangement is shown in Fig. 2. Also, one constructed as non-cyclic 6-color random

array where each one filter cell satisfies predetermined array restricting conditions with respect to adjacent cells is shown in Fig. 10.

By contrast, as indicated in amended claims, the color filter in the invention of the present case is of non-cyclic 3-color random array where each one filter cell satisfies predetermined minimum color density conditions with respect to adjacent cells. Accordingly, the color image pickup device and color image pickup apparatus as well as color image pickup system according to amended independent claims 1, 3, 21, 23, 33, and 34 and their dependent claims 2, 4 to 7, 22, 24 to 27 are clearly different in construction from the one disclosed in Yosida.

**The Tsuruoka Reference:**

Claims 1 - 4, 21 - 24 and 33 have been rejected under 35 USC 102(e) as being anticipated by Tsuruoka.

This rejection is respectfully traversed.

With regard to this reference, the Examiner asserts that “Tsuruoka also discloses a color coding array that directly picks up a color image corresponding to the pixel group arranged in a randomized array satisfying predetermined minimum color density conditions. (col. 13, line 45 – col. 14, line 11, Figs. 12A, 12B).”<sup>1</sup>

---

<sup>1</sup> Please see, lines 4-7, page 7 of the Action.

However, the Examiner is clearly mis-characterizing the teachings of Tsuruoka, since the array disclosed in Fig. 12A is not a randomized array. In fact, Tsuruoka teaches away from using a random array, “the random arrangement of pixels has to be recorded as location data and may be troublesome.”<sup>2</sup>

Instead, Tsuruoka discloses that such array is a quasi-random array. More specifically, Tsuruoka discloses in col. 14, lines 10-11 that, “[a]s a result, a quasi-random pattern is established.”

That is, the device disclosed in Tsuruoka is a color image pickup apparatus using a quasi-random array where a random array of rectangular region serving as a basic cluster is repeatedly disposed.

Accordingly, the device disclosed in Tsuruoka is essentially different from the invention of the present case where non-cyclic 3-color random array is used.

#### **Obviousness-Type Double Patenting:**

Claims 1-7, 21-27, and 33-34 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 10 and 12-15 of Yosida (U.S. Patent No. 6,803,955).

This rejection is respectfully traversed.

---

<sup>2</sup> Please see, lines 51-52, col. 13 of Tsuruoka.

It is respectfully submitted that since the independent claims have been amended, as discussed above, limited to 3 colors, it is now believed that each claim of the present case is patentably distinguished from each claim of Yosida. Accordingly, withdrawal of this rejection is requested.

In view of the aforementioned amendments and accompanying remarks, the claims, as amended, are in condition for allowance, which action, at an early date, is requested.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

Amendment under 37 C.F.R §1.111  
U.S. Patent Application Serial No.: 09/551,143  
Attorney Docket No.: 000489

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP

By:   
Thomas E. Brown  
Reg. No.: 44,450  
Attorney for Applicants  
Tel: (202) 822-1100 (t)  
Fax: (202) 822-1111 (f)

TEB/jl  
1250 Connecticut Avenue, N.W.  
Suite 700  
Washington, DC 20036-2657